

Remarks

Reconsideration of the present application is respectfully requested.

Claim 13 has been amended to correct a minor typographical error.

Despite Applicants' request for return of an initialed Form PTO-1449

in the Amendment filed on November 22, 2002, the Examiner again has not returned an initialed copy of the Form PTO-1449 accompanying the IDS that was submitted at the time of filing of the present application and that lists references cited by the Applicants. Applicants again request that the Examiner initial the references listed thereon and return a copy of same as proof that the listed references have been considered. A courtesy copy of the originally-submitted Form PTO-1449 is attached to this Amendment.

The Examiner has rejected claim 1 under 35 U.S.C. 103(a) as being unpatentable over Baba. This rejection is respectfully traversed.

In the Office Action dated June 6, 2002, the Examiner rejected claims 1, 2, 5 and 6 under 35 U.S.C. 103(a) as being obvious in view of Baba and Nishimura. In his reasons for the rejection, the Examiner admitted that Baba "...does not disclose a filter ...having a filter surface that is positioned along a gravitational directional (sic) when the pressure sensor is used." The Examiner then cited Nishimura in an apparent attempt to cure the above deficiency in Baba.

As pointed out by Applicants in the Amendment filed on November 22, 2003, Nishimura in fact did not teach or suggest a filter positioned along a gravitational direction, as is the filter of the present invention. The Examiner apparently agreed with Applicants' position, as he has withdrawn Nishimura from the present rejection of claim 1. The Examiner has subsequently attempted to cure the deficiency in teaching of Baba by asserting that, because Baba and the

present invention are in the same field of endeavor, it would be obvious to modify the position of the Baba filter from a horizontal position to a vertical/gravitational position to utilize gravitational forces to prevent contaminants from entering into pressure chambers, apparently without considering the fact that a vertically oriented filter not only prevents contaminants from entering the pressure chamber, but is also capable of shedding water to prevent the filter from becoming clogged.

In view of the Examiner's earlier assertion that Baba does not disclose a filter having a filter surface that is positioned along a gravitational direction, and in view of the Examiner's earlier apparent attempt to cure this deficiency with Nishimura, now withdrawn, Applicants respectfully question the validity of the Examiner's current position with respect to this feature of the present invention. Further, Applicants assert that the Examiner's position begs the question – why would it be obvious to include a filter having a filter surface that is positioned along a gravitational direction when, as discussed in the Background section of the present application, such teaching is clearly lacking in the art of record, and when clogging of the filter due to accumulated water and surface tension thereof is an issue with respect to current pressure sensor filter designs/orientations?

If assuming *arguendo* that the Examiner maintains the above rejection of the claims, Applicants specifically request, pursuant to MPEP §2144.03 (8th Ed., Rev. 1, Feb. 2003), that the Examiner provide adequate evidence, such as a reference, or provide a declaration or affidavit, supporting this position.

The Examiner has also indicated that claims 7-14 are allowed, and that claims 2-6 would be allowable if rewritten in independent form to include the limitations of base claim 1 and any intervening claims. Applicants note with appreciation the allowance of claims 7-14 and the indication of allowability of claims 2-6. In response, Applicants have amended claims 2, 3 and 6

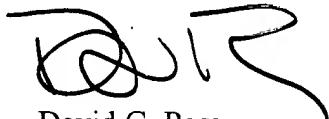
Serial No. 09/824,708

into independent form to include the limitations of base claim 1. Therefore, these claims, along with claims 4 and 5, which depend from claim 3, are now allowable.

In view of the above remarks and amendments, the present application is now in condition for allowance. Applicants therefore respectfully request a prompt Notice to that effect.

A petition for a three-month extension of time and the requisite petition fee are being submitted concurrently herewith. Please charge any fees that may be due, or credit any refunds, to Deposit Account No. 50-1147.

Respectfully submitted,



David G. Posz
Reg. No. 37,701

Posz & Bethards, PLC
11250 Roger Bacon Drive
Suite 10
Reston, VA 20190
(703) 707-9110 (phone)
Customer No. 23400